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I certify that the statements made by me above are correct and complete. John Kurzweil, Editor

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CALIFORNIA★POLITICAL
REVIEW

A PUBLICATION OF THE
CALIFORNIA PUBLIC POLICY FOUNDATION

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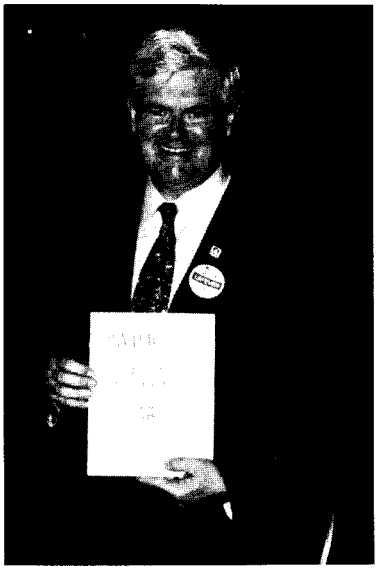
CORRESPONDENCE

Nerve-Rattling Elections

I discovered a copy of your wonderful magazine that some poor reader had obviously inadvertently left on an airplane seat. After all, who would *intentionally* abandon such a fine collection of conservative treatises?

I was most interested in Christopher Shelton's piece on the upcoming elections ("Stretch Run to November," *CPR*, September/October 1996). I will admit that many, if not most, of the names mean little to me as an outsider. Still, I was able to sense the nerve-rattling tension that must be gripping partisan activists in your once golden state. The thought of all that is at stake with this teetering balance of power must be excruciating.



Another Heroic *CPR* Reader

The progress of self-government should be studied carefully in California, a state that has become the cradle of our country's grassroots activism and of much more besides. In the past we have had to rely upon insider gossip from the West Coast, or else compartmentalized major-media analysis full of cliches and popular misconceptions. I am happy to learn of a high-quality periodical that examines California politics from a thoughtful conservative perspective.

Dennis Barry
Bozeman, Montana

Reborn Youth

What an wonderful idea! The reprint from C.S. Lewis' *Screwtape Letters* ("Jargon, Not Argument," *CPR*, September/October 1996) brought back fond memories of my college years. After reading it, I immediately ran to my garage and dug through dusty old boxes for the book. I didn't put it down until I had re-read it cover to cover.

In those collegiate days, there was a small band of us who were considered a bit eccentric even by our YAF colleagues. We could quote from *Screwtape,* and other such lofty works, the way later generations could quote from Monty Python and Mel Brooks movies.

I would suggest that you *not* wait for anniversaries to coincide with future issues, and instead continue to offer excerpts from classic conservative literary wit on a regular basis; if not to shame us for ever packing the books away, then for a newer generation who may never have been exposed to these works in the first place.

While we are on the subject of the Devil himself, I recommend Ambrose Bierce's "The Devil's Dictionary" — chock full of reprintable bites of satirical wisdom. It deserves to see the light of day, now more than ever. Keep up the good work.

John Kinsella
Sunland, CA

Even in WillieLand

Great publication! I look forward to "plugging" it and the phone number on the air.

Spencer Hughes
Spencer Hughes "On the Air"
KSFO Radio, San Francisco

Many thanks — we've already added Bay Area subscribers who say they heard about us "on the radio."

— Editor

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SACRAMENTO SPECTATOR

The lobbyist community has been one of the groups slowest to adjust to the new reality of a Republican majority in the Assembly. Part of this is due to the fact that Democrats have been moving ex-staffers into key "Third House" jobs at a regular rate for many years now. Part of this is also due to the fact that the lobbyist community has its share of dim bulbs in positions of authority.

Unfortunately, part of this phenomena is also due to a new factor: lobbyists and large companies who are officially "Republican," but are self-consciously "moderate." These folks just have no patience for the great unwashed of the conservative movement. These major corporations and their lobbyists as often as not feel "embarrassed" by conservative ideas and are mortified by conservative successes. They take the typical liberal attitude that "they" know what is best, and we common folks should just get out of the way and let the enlightened and elite run our pitiful little lives for us.

This has been especially noticeable in Silicon Valley, a prime example being the Hewlett-Packard Corporation. While this company has been tilting left in recent years, the death of David Packard apparently removed the last obstacle to the full scale emergence of HP as a major factor in the Democrat and liberal onslaught in California.

Item: Executives or paid lobbyists for HP have apparently taken the lead in forming a self-described "counter-force" to Assembly Speaker Curt Pringle and his efforts to elect more Republicans to the lower house. According to very well informed sources in Sacramento, the plan was to raise at least $1 million to put at the disposal of Democrat Assembly Leader Richard Katz and Senate President Bill Lockyer. HP

and the other corporate socialists in Silicon Valley simply can't deal with a Legislature made up of people who would never be admitted as members to their country clubs.

Item: HP's government relations folks led the successful effort to have the company withdraw from membership in the California Manufacturers Association (CMA). CMA, along with the Chamber of Commerce and other pro-business groups, had just concluded the most successful legislative session from a free market perspective in at least 25 years. However, that wasn't good enough for HP. Rumor has it they quit CMA in a whiney snit because CMA wouldn't support an increase in the gasoline tax!!! CMA's not unreasonable position was that since both the Silicon Valley folks (who wanted the tax increase), and the petroleum companies (who opposed the increase) were CMA members, the organization would stay neutral on the matter.

Well, the pip-squeak wanna-be power brokers inside HP held their breath, threw a tantrum, and quit CMA because this organization, whose job is to represent business in California, opposed raising taxes.

Your *Spectator's* own view is that the CMA is better off without the jelly-backboned mealy-mouths at HP mucking up CMA's own internal workings. However, I would also suggest giving HP a dose of its own medicine next year. CMA and the petroleum companies ought to support a special 30 percent tax on computer chips ... with the money going to put computers in schools for the aged, blind, and disabled. We can only presume that HP's public spiritedness will lead it to support such a program enthusiastically.

And briefly on the legislative elections: hold your breath and light a candle. Several races around the state are very close, but at the moment the tea leaves indicate continued GOP control of the Assembly and even possibly the addition of one or two seats in the Senate.

— A.P.C.

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THE LAW

The Emperors Wear No Robes

Bring on your arguments, your briefs, your opinions, you public — just, please, not too loudly, not too soon.

MARK S. PULLIAM

IN PAST issues of *CPR*, this column has criticized — sometimes harshly — certain decisions of the California Supreme Court and the rudderless "moderate" judicial philosophy that produced them. The politics of the Court is not the only problem, or, in some critics' view, even the main problem. A well-respected "court watcher," University of California, Berkeley, law professor Stephen Barnett, recently pointed out that the Court's internal procedures are "fundamentally flawed," regardless of its ideological orientation. Writing in the September issue of *California Lawyer* (a publication directed at the legal profession), Barnett, a Democrat who once clerked for U.S. Supreme Court Justice William J. Brennan, threw down the gauntlet with this charge: "[T]he California Supreme Court has become too bureaucratic and operates in ways that compromise its judicial character and reputation."

Among the complaints lodged by Barnett in his article, entitled "The Bureaucourt," are these:

• Pursuant to the Supreme Court's internal rules, six of the seven justices generally receive a draft opinion with which they decide whether to agree or disagree *before they even read the parties' written legal briefs.* Most litigants (not to mention members of the public) assume that the justices would not make up their minds until carefully studying all the briefs. Surprise.

• Even more jarring is the revelation that the Court votes on cases and drafts minority and dissenting opinions (if any) *before* hearing oral argument from the parties.

• The Court's decisions are too long. The average non-death penalty decision of the California Supreme Court is 58 percent longer than the average decision of the U.S. Supreme Court. Moreover, the average decision issued by the California Supreme Court in the 1995 term is more than *three times longer* than the average decision issued 30 years ago. The result is a veritable Tower of Babel. Legal rules should be clear and concise, not obtuse and imponderable. University of Pennsylvania law school professor Geoffrey Hazard recently remarked that the "proliferation [of legal rules]" results in "slicing legal distinctions finer and finer. The ancient philosopher Zeno identified a paradox, for which he is named, in the fact that a given length can be divided in half an infinite number of times. So with a given rule." And, in helping prove Zeno's Law of Infinite Judicial Rules Divisibility, the California Supreme Court apparently is also proving judicial decisions can be of infinite length.

THE REASON for these gargantuan decisions, in Barnett's view, is that the Court's internal staff has grown on an absurd and unprecedented scale. Each justice has five full-time staff attorneys (the chief justice has eight) in addition to the Court's "central staff" of 25 attorneys (now being increased to 28). No other state supreme court (or even the U.S. Supreme Court) comes close. More significant is the *type* of staff the Court employs. The U.S. Supreme Court and most state supreme courts use "law clerks": recent law school graduates who serve a year or two and are then replaced. In contrast, the staff attorneys at the California Supreme Court are long-term civil servants. In Barnett's words,

> These are all settled insiders, unlike the rotating law clerks of yore who brought to the court fresh ideas, enthusiasm, changing personal styles, bridges to the law school world, perhaps irreverence, and other proceeds of youth and recent law school experience.

Instead, the Court's present staff "is notable for its

Mark S. Pulliam, California Political Review's *legal issues correspondent, is an attorney in private practice in San Diego.*

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COMMENTARY

From Liberal to Liar

"It's like their Golden Oldie," said President Bill Clinton during the first presidential debate, grinning as he dismissed Bob Dole's and other Republicans' characterizations of him and his policies as "liberal." He implied that the label is outdated as he talked about his having shrunk the deficit and the size of government, and unfair. "We don't call ourselves liberals anymore," Clinton implied, "so where do you Republicans get off dictating how we describe ourselves?"

In one sense, Clinton had a point. If "liberal" is defined as a Hubert Humphrey-era faith in government as a powerful force for serving the common good, then the label is indeed outdated, inasmuch as most Americans now understand that, for instance, Nationalized Health Care would be a nightmare combination of Post Office efficiency with IRS compassion.

But defining liberalism that way misses what it really is, instead focusing on its proponents' most dreamy-eyed rationalizations for it. According to a more accurate definition, that liberalism is simply ever-more government power intruding into our lives, Clinton's chiding was dishonest. In the underlying political conflict of our time, as measured by how long we wait each year for Tax Freedom Day, or by the wild careening of the legal system in defiance of law, or by the movements to reward and punish people by group, to belittle personal morality, to remove religion from public life, to shove family and parents out of their central role in passing our culture on to succeeding generations, and, most profoundly, to eradicate the defining Western idea that our free will gives each of us the power and the responsibility to choose between good and evil, defining ourselves morally in the process, Bill Clinton is unmistakably on the liberal side.

Accordingly, he raises taxes, grabs land, attempts to nationalize health care and to inject homosexuals into the military, bumbles foreign policy, politicizes the judiciary, champions infanticide-abortion, wins, according to the latest *L.A. Times* poll, the nearly four-to-one support of Americans who profess *never* to attend Church or any organized religious services, and, mainly, he lies like a rug: daily, hourly, reflexively, without thinking, without hesitation, and with no more remorse or even comprehension of what he is doing than a sociopath.

Liberalism *has* come a long way, but, in another sense, it's always revolved around lying. When Lyndon Johnson *and* Hubert Humphrey portrayed Barry Goldwater's common sense disagreements over foreign policy as a craving for nuclear war, it was all there. What has come to be called Liberalism in this century is essentially an overall commitment to irresponsibility, the opposite of freedom's commitment to self-reliance.

Big government is only one of the most obvious symptoms of a people growing weary of the burden of freedom. A more telling one is first a tolerance, then a positive yearning, for deceptions designed to fool oneself as much as anyone.

Everyone knows not only that Bill Clinton is the world's currently-reigning prince of liberals, but also that he is probably the biggest liar among them to date. His candidacy is really about the moral sensibilities of the American people: have we grown sufficiently irresponsible, that is to say, bloated and decadent, to return to the White House a man known everywhere as a moral reprobate simply because we are afraid anymore to say that moral responsibilities matter, given that saying so might imply that we should take those responsibilities seriously even in our own lives?

This election is most importantly a measure of the moral state of the American people. Next to that, even the question: who will occupy the White House? is a secondary matter. CPR

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permanent, professional, hermetic nature." Justices come and go, but the entrenched staff attorneys remain, grinding out tedious and unnecessarily complex decisions. The temptation and pressure are great for a justice simply to surrender decision-making power to this powerful (but invisible) corps of staff attorneys. As a result of the California Supreme Court's internal procedures and staffing, one is entitled to ask: who really calls the shots at the Court? When cases are decided before the briefs are read; when decisions are written before oral argument; and when permanent staff attorneys out-number justices by a margin of almost 10 to one, this is no idle question.

PROFESSOR BARNETT'S essay *should* produce an uproar. What it shows is that the California Supreme Court operates like a Potemkin Village — an elaborate facade masking a shabby reality. Imagine the reaction if a reporter discovered that California legislators routinely voted on bills before reading them, before reading any of the arguments carefully prepared by their proponents or opponents, even before conducting committee hearings — all the while hypocritically accepting the background research predestined to be ignored, carrying on the hearings drained of all meaning, reverently nodding and grimacing through the long sessions over legislation they neither knew nor cared much about, their staffs having long before made all their decisions for them. We would call that a fraud. The judiciary is a co-equal branch of government. Should we hold it to a lower standard?

There is a great irony here. On the one hand, justices profess the importance of "judicial independence," bristling at any notion of public accountability for their decisions. (Recall Chief Justice Ron George's doubts about the "level of sophistication ... of individual voters," expressed in his July/August *CPR* interview.) On the other hand, the California Supreme Court operates in the way Professor Barnett describes because it *wants* to operate that way. Yet delegating the writing of opinions and the making of decisions to civil service bureaucrats is hardly a sign of independence. Neither is the practice of voting on cases before reading the briefs and writing decisions before oral argument likely to increase the Court's stature in the eyes of the public, to whom five of the justices will answer in November 1998. The best way for the Court to improve its reputation and repair the disillusionment many voters feel toward the judiciary would be to implement meaningful reforms. The Court, however, may be too arrogant or out-of-touch to realize this. Barnett concludes with the observation that Chief Justice George "doesn't seem likely to challenge the institutional *status quo,* to recognize that the Court has become too bureaucratic and do something about it." The justices do not seem to realize that they wear no robes. CPR

THE MIDNIGHT ECONOMIST

Sweatshops: Outrage and Analysis

The Economist in a Political Den of Iniquity

WILLIAM R. ALLEN

COMPASSION, IF unaccompanied by analytic comprehension, will rarely make a dent in the ills and agonies of a hard and stingy world. Indeed, schemes and stipulations to do good commonly do net harm to the targeted beneficiaries.

Revulsion and indignation — genuine as well as affected — come easily in contemplation of "sweatshops," many of them found in California.

In the garment industry, retailers — dress shops and department stores — buy merchandise from manufacturers; the manufacturers often contract with others to supply them; the contractors typically sub-contract with sewing shops, which do the actual producing. The retailers, the manufacturers, and even the contractors may do well; the hard-pressed, viciously competitive

William R. Allen — who is as sensitive as Kathie Lee and a vastly better analyst — sweats to generate truth in the economics department of UCLA.

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sewing — or sweat — shops and their women workers do *not* flourish.

No person of gentility could rejoice over extraordinarily long hours of hard work in bad circumstances for low pay. So we are to do good: We must pass strict laws, strictly enforced, to abolish low pay, long hours, unpleasant working conditions (including work at home), and use of children.

By so doing, what good have we done? Politicians, journalists, professional social activists, and media personalities will have posed as benefactors of the downtrodden. Bureaucrats will enlarge their bureaucracies. Labor union members will have less job competition at home and abroad. Major manufacturers can find solace in greater mechanization, state-assisted cartelization, and protection from foreign "pauper labor."

But is that really the end of the story, the end of analysis of the problem, the end of policy prescription? We simply outlaw the scourge of sweatshops and walk away in prim satisfaction?

WHAT OF those who were supposed to be helped — the workers — typically uneducated, poorly trained, illegally in a land foreign to them, with little experience and marketplace sophistication — who have had their livelihoods abolished? They had been surviving, even though meanly by civilized standards, in market competition by selling their limited services of low value at meagre wages. Taking away those miserable jobs, pricing them out of what had been their best option, does not magically provide them with better alternative employment. Reducing their already-poor power to compete, leaving them more handicapped than before, is a strange way to help them.

THE SWEATSHOP situation certainly has tragic elements. But to alleviate the tragedy, we must get straight the base of the tragedy. It does little good to damn greed, for all of us — not just garment producers and sellers — are afflicted by abundant greed. The real source of the terrible circumstances of sweatshop workers is their few and unappealing alternatives. With better options, they would leave the sweatshops.

They do not voluntarily leave, for they have no better options, either here or in their native lands. Why not? Because they have little of value to sell in the labor market. And they have little to sell because they have little education and training, little geographical mobility and knowledge of employment possibilities, and their condition is made still harder if, by chance, they also are without a resident husband and too many children.

A policy which helps to generate a satisfying resolution will have to deal with enhancing the productivity and market effectiveness of these workers. Abolishing their jobs can hardly help. Moral outrage has its place. But it is not an adequate substitute for systematic thought. CPR

THE WORKING PRESS

The San Jose Conspiracy News

The Merc Reports a Government Plot to Wipe Out Thousands in L.A.!

TIM W. FERGUSON

NO NEWSPAPER series this year has caused as much yakking as the *San Jose Mercury News's* three-parter on how the CIA and some honchos of the Nicaraguan Contras teamed up to flood black Los Angeles with crack cocaine in the 1980s. Much of this conspiracy had been alleged previously in various fora, but the *Merc* packaged the stuff as an exposé, and a lot of people were happy to see it as a scandal. It might even beat out the *Philadelphia Inquirer's* rehash of its "declining middle class" project for the Pulitzer Prize.

The San Jose pieces caused some hand-wringing at

Tim W. Ferguson is California Political Review's *press critic.*

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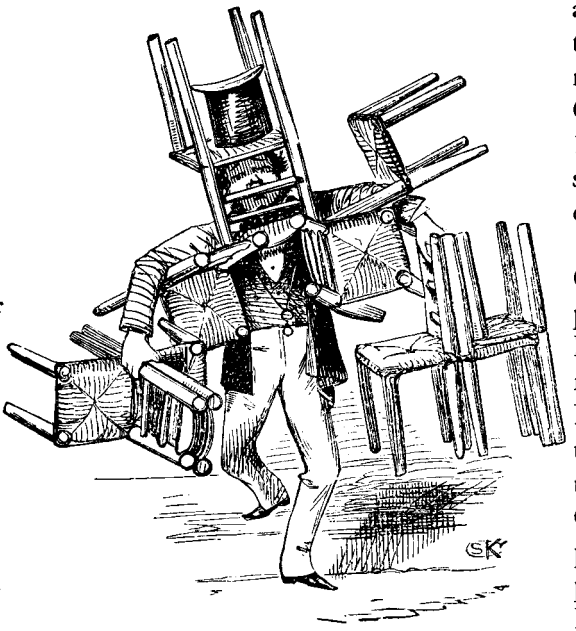
the *Los Angeles Times,* at least according to various other liberal organs (including the two L.A. free weeklies, which reprinted part or all of *Merc* material and delightedly savaged the *Times* for "missing" the story of how an inner-city area in its own backyard got such expensive highs). The *Merc* and series author Gary Webb went into overdrive promoting their claimed coup, even as representatives of the *Times* and major Eastern dailies generally dismissed the event as a second-tier paper's reach for glory with dated dope. (It's fun to watch the Hive turn on itself!)



Yet in those black precincts where blame is always the name of the game, the story played big. Maxine Waters and her ilk clamored for a U.S. government investigation, even though a lot of the *Merc's* series came out of a previous probe by a Senate committee then headed by John Kerry of Massachusetts. The objectives this time are retribution and reparations.

Although it seems likely that elements of the Contras, if not the command and its CIA contacts, were indeed drug runners (something even conservatives tacitly admit by making much of the Mena airport rumors in Arkansas), it ought to strain credulity to think that blacks would be a natural target market — unless one thinks they are especially disposed to do drugs. Or unless you believe, as many of the loudest black voices suggest, that the feds want to wipe out big parts of black America. In an article in the *Weekly Standard* on this hubbub, Tucker Carlson asked one talk-show demagogue (black-left variety) why the CIA would want to kill blacks. "This is America!" he replied.

When you think about it, that was the implicit explanation the *Merc* and all of its newfound fans were offering as well.

⚜ ⚜ ⚜

The big news in opinion circles is the looming departure of Ken Grubbs from the top editorial-page post at the *Orange County Register* and what that might portend for coverage at the state's third largest newspaper. Grubbs, a libertarian with conservative strains, has been the keeper of the Hoiles philosophical flame at the paper for more than 20 years (with sabbaticals, during one of which your humble columnist assumed that chair). There has been little wavering from classical liberal, free-market beliefs on the *Register's* editorial pages, and no great reason to expect any now. But Grubbs' likely departure for a magazine job at parent Freedom Communications has to be seen in a larger context: his battles with several of the news chiefs who have joined the paper over the last decade, and especially with Tonnie Katz, the *Register's* current editor. Under Katz, Grubbs saw the rest of the paper veering left and away from the news judgments that attracted him to the place. (Patriarch R.C. Hoiles was still running the *Register* when Grubbs joined as a reporter in 1966.) Rather than resign himself to a bifurcated product, as editorialists at places like the *Wall Street Journal* have done, Grubbs argued repeatedly to publisher Dave Threshie, a Hoiles in-law, that the newsroom's drift to port be checked. But with a recent Pulitzer Prize under her belt, Katz isn't likely to get grief from Threshie, so Grubbs is going looking for a publication on which he can put more of his own stamp. His successor — yet to be named — is unlikely to pick many fights with the newsside, so whatever the *Register* is now, it can be expected to be more so in the future.

⚜ ⚜ ⚜

Those who wish to relive the sad tale of the "Terrible 200s," the anti-litigation measures that were wiped out by an effective lawyer campaign in March, should check their library for the October issue of *Worth* magazine. Andrew Tobias, the author of the no-fault auto insurance part of that triad, recounts at length the dodges and deceits of the Naderite consumer lobby and its various allies on the left. A New Democrat of sorts but still infused with liberal (hence naive) sensibilities, Tobias remains capable of indignation at the sort of hardball demagoguery that his onetime friends practice. He gives Consumers Union a going over, and details the lengths to which he went to get signatories of a hit ad against him to renounce what they'd put their names to. (He even placed a target ad of his own in the college paper of a Pecksniffian San Diego law professor who blew him off.) Tobias can't quite bring himself to see venality in Nader himself, but he doesn't have the same hesitation about Proposition 103 hound Harvey

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Rosenfield.

Tobias's tale is awfully long, but it's the sort of behind-the-scenes story about a major California campaign that — especially in the case of initiatives — we rarely get to read. The *Los Angeles Times,* which is still capable of running pieces that "jump" over several pages, avoids this kind of extended political analysis, even in what might be an appropriate forum, its limp Sunday magazine.

One final thing worth noting about the Tobias article is a crack in the lefty alliance: Barney Frank is quoted observing that Nader "has remained conspicuously silent on the tough social issues." Adds Tobias, "'Gonadal politics' is how Nader sometimes dismisses the concerns of women and gays." By the way, St. Ralph also is said to detest the erosion of standards in public schools, which might stir up further dissension in the Democrat ranks if an enterprising reporter were to tease the words out of him.

About the only time Dan Lungren has the Capitol press corps on his side is when he's trying to regulate gaming in the state —which is to say, when he is trying to aggrandize his office with new powers. Give Lungren credit — he probably does believe that gambling is out of control and needs an honest regulator. And concede the fact that without state action, there'll probably be more shady sorts getting involved. So? A *San Francisco Chronicle* front-page story on "California's best chance to rein in" the nefarious industry — legislation that was stymied by legislative bickering — never considered the question: Why do we want to give these gambling dens any official stamp of approval? Why can't those who patronize them do so at their own risk? One response is likely to be: without controls, they'll be used to launder ill-gotten gains — that is to say, money made at some other vice prohibited by law. Maybe all vice should be legal and buyer beware. If that isn't a perspective ripe for consideration in San Francisco, where?

The Copley papers are supposed to be conservative, but some of them feature a state-government columnist named Tom Elias who sounds a lot like Harvey Rosenfield when it comes to insurance companies. (He also says seismology is little more than astrology and shouldn't be the basis for rating earthquake policy risk.) On another subject, he likes Barbara Boxer's chances for re-election, saying her best potential foes — Pete Wilson and Michael Huffington (!) — won't run against her and nobody else who would is serious. (The names he ticked off didn't include Chris Cox, whom Elias probably regards as an Orange County crank.) He said Tom Campbell "may want to stay put" in the House, which doesn't sound like Tom Campbell. He said Boxer is like Alan Cranston, lucky in having bozo foes. But then he wrongly lists Earl Brian as Cranston's 1974 opponent (it was H.L. Richardson). If this is the best Copley can manage, maybe it should just pick up Sherry Bebitch Jeffe.

Dean Singleton's purchase of a string of small Los Angeles County papers raised speculation that the Denver-based press magnate (who also owns the *Oakland Tribune)* might try to consolidate an advertising "buy" by acquiring L.A.'s *Daily News* from Jack Kent Cooke. He says he has no plans, but even his tight-fisted finances would be an improvement for the bereft *News,* which might then forge a sharper challenge to the *Times.* Even if Singleton's newspapers have no distinct editorial line, a little more competition can't help but improve the regional fare.

This column has groused before that the Public Utilities Commission escapes regular press attention, which is a shame given that it has become one of the primary sources of income-transfer in California. The agency imposes taxes on power and phone customers, and on the utilities themselves, that are then handed over to favored parties in the form of "lifeline" service rates and other compensatory programs. But you don't have to be poor or disabled to get a bounty from the PUC. You can be a "public interest" lawyer. Each year the bureaucracy publishes a list of its "Intervenor Compensation Decisions" to the notice of no reporters. In 1994 and 1995 combined, a total of $1.7 million went to consumerist groups, most of it to cover the billings of attorneys like $215-an-hour Robert Gnaizda and their "expert" witnesses in cases before the commission.

Where was the "corporate welfare" attack squad in the press when an executive of the California Restaurant Association argued in a *San Francisco Chronicle* op-ed against Pete Wilson's plan to privatize the State Compensation Insurance Fund? Seems this group of small businesses doesn't want to disturb an entity that acts to keep down their workers comp premiums. Sure, keep the state in the insurance business. Hello! CPR

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Public Policy Forum

A New, Consumer Friendly Electric Power Industry

By Assemblyman Jim Brulte

AFFORDABLE ELECTRIC power is a serious matter in California: all customers — small businesses, residential consumers, and large users — rely on it, not as a luxury, but as a necessity. Assembly Bill 1890 (Brulte), recently signed by Governor Pete Wilson, ushers in a new era of competition, making California the first state in the nation to bust-up its electric monopolies. Implementation of AB 1890 is a significant step in guaranteeing consumers lower rates, increased reliability, and better service. In effect, it will allow Californians to shop for the best electric prices, in a competitive market, to meet their needs — not those of the power providers.

Currently, California electricity customers are assigned an electric generation provider based on whether their location falls within a certain utility's territory. This system, stifling competition, has resulted in rates that are a full 40 percent higher than the national average. The state's three major privately-owned electric utilities are Pacific Gas & Electric, San Diego Gas & Electric, and Southern California Edison. AB 1890 will require these monopolies to restructure, relinquishing their control of transmission facilities and

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Assemblyman Jim Brulte represents the 63rd Assembly District and is the author of Assembly Bill 1890.

A Bribe by Any Other Name Smells

By Gideon Kanner

CALL IT baksheesh or mordida or whatever, but in many parts of the world, crossing palms with silver can work wonders when it comes to facilitating commercial objectives. Here in the good ol' U.S. of A., we have been largely spared all that.

Oh sure, legend has it that there are places where a spot of generosity toward building inspectors can go a long way toward spreading the milk of human kindness in dealings with City Hall. Out here, civic-minded Californians prefer generous contributions to the campaign coffers of elected minicipal officials, though legend has it that some have been known to lunch with devoted public servants and leave behind on the dining table a copy of a highbrow magazine with pages generously interleaved with federal reserve notes. It used to be tax-free bearer bonds, but you can hardly get those now.

But that is nasty stuff with criminal-law implications. How much nicer it would be if one could make money change hands, mollify one's opponents and achieve one's development objective without having to worry about being prosecuted, all while assuming a public posture of do-gooderism.

Is that possible? Can you pay off

(Please turn to page 24)

Gideon Kanner is professor emeritus at Loyola Law School. This article first appeared in The National Law Journal.

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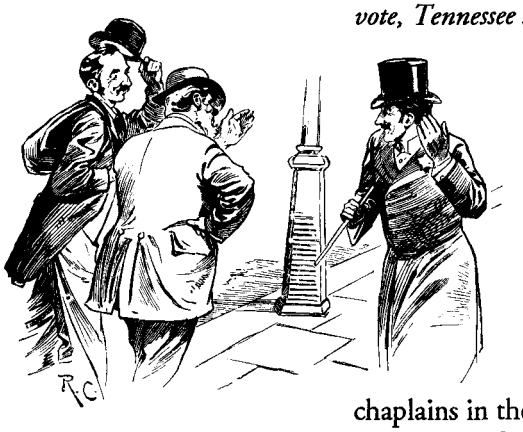
DENNIS PRAGER &
HON. STEPHEN COHEN

Whose Morality?



Senator Dianne Feinstein told the Democrats' National Convention that parents should teach their children "the difference between right and wrong." Good idea, but the senator neglected to add that following her advice would mean running head-on into the moral and logical relativism that dominates, and thoroughly confuses, our age. Fruitful moral instruction requires a love of truth strong enough to overcome any impulse to bow to fashionable moral incoherence and, additionally, to persevere through the hard work of serious thinking about morality. It is a difficult, although rewarding, subject, not for the mentally or morally lethargic. This space is devoted to those willing to assume the task.

In September, author, teacher, and KABC (Los Angeles) radio talk host Dennis Prager wrote an article, "The Ten Commandments: Given by Ancient Jews, Removed by Modern Jews." Prager cited a resolution, passed by the Tennessee state Senate 27-1, that encouraged "every citizen of Tennessee to observe the Ten Commandments, teach them to their children, and display them in their homes, businesses, schools, and places of work." The article led to a debate, broadcast September 17 on KABC, between Prager and the resolution's lone "nay" vote, Tennessee state Senator Stephen Cohen. Excerpts follow.

A Debate: Should the State Encourage Its Citizens to Obey the Ten Commandments?

I
"The United States Government Has Always Encouraged Religion."

Dennis Prager: Not encouraging religion is pretty new. The United States government has always encouraged religion. That's why we have chaplains in the armed forces paid for by public funds.

Senator Stephen Cohen: I don't think it's new. You know, Dennis, some people argued, "Oh, the country was better when we posted the Ten Commandments." I went to school for two years in Pasadena and I went to school the rest of the time in public schools in Florida and Tennessee. In no place was the Ten Commandments ever posted, and we didn't have a problem with crack or with teens getting guns and shooting each other. I don't think the Ten Commandments control society, and I think all of this stuff about the Ten Commandments making us a better society is malarkey. There are a lot of fundamental problems with society, and you cannot wave a wand and post 10 rules, and all of a sudden crack and machine guns will disappear, and Tupac Shakur would become a good human being and sing nice songs.

Prager: I don't think anybody believes that, but there are people like me who do believe that the public school that my father attended in New York City, which did make reference to God and which did allow some degree of religion, did produce better kids.
Cohen: I don't think it was the religion that did it. I think it was the time.

Prager: So you feel it's a coincidence?
Cohen: I think it's a coincidence.

Prager: The decline of religion in America and the moral decline that both left and right perceive are coincidental?
Cohen: I think it's drugs. I think it's the influence of drugs and crack and cocaine.

Prager: Then why don't religious kids take crack and cocaine as much as secular kids?
Cohen: Some religious kids do.

A longer version of this debate, and Prager's original Ten Commandments article, originally appeared in The Prager Perspective, a twice monthly journal written and published by Dennis Prager. For subscription information, call 800/225-8584, or write The Prager Perspective or Ultimate Issues, 10573 West Pico Blvd., No. 167, Los Angeles, CA 90064.

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Prager: "Some" is not the question. Percentage-wise it's not comparable. How do you explain that, if there is no correlation between religion and behavior?
Cohen: I would say that there is probably a smaller percentage of fundamentalist Christian kids that take crack and cocaine. But there are [religious] kids that smoke marijuana.

Prager: No one denies that there are some religious kids who do ...
Cohen: I guess part of it is the fact that some people are more likely to follow blindly on faith than others who will think and experiment.

Prager: Do you have kids?
Cohen: No, I do not have children.

Prager: Would you like your constituents' children to experiment with drugs or to "follow blindly" that drugs are bad?
Cohen: I don't think that they should blindly believe anything. I think they should be taught the reality that drugs are bad, and I think they should be taught it realistically and not because of [religious faith]....

II
"A Couple of Quotes of Our Founding Fathers."

Caller 1: Real, quick, Dennis, just a couple of facts. There are, I think 55 signers of the Constitution. I think two were atheists, three were Catholics, and of the rest, they were a smattering of Christians, 39 of which were hardened Calvinists, which today would be considered the evangelical or fundamentalist of the day. Let me throw out a couple of quotes of our founding fathers. John Quincy Adams: "The highest glory of the American Revolution was this: It connected in one indissoluble bond the principles of civil government with the principles of Christianity." And Patrick Henry said, "It cannot be emphasized too strongly or too often that this great nation was founded not by religionists, but by Christians; not on religions, but on the Gospel of Jesus Christ."
Cohen: Well, it wasn't founded on the Gospel of Jesus Christ. Many of the founders were deists.

Caller 1: No, they weren't.
Cohen: Benjamin Franklin was a deist. Thomas Jefferson was a deist.

Caller 1: Sir, you are wrong.
Cohen: They were Unitarians.

Caller 1: There were only a few that were deists or Unitarians like Jefferson and Franklin.
Cohen: What? That made them non-Americans?

Prager: Wait, wait. He didn't say they were not Americans. He only said that the majority of the founders were Christians, not merely deists ....

III
"You Are so Bright, and yet, You Are Fooling Yourself. "

Caller 2: I have a challenge for the Senator. If the government is to be prevented from espousing such basic principles as those in the Ten Commandments, why are religious people such as the cardinal we have here in Los Angeles allowed to voice their own opinions about government, *i.e.,* Proposition 187 [the California Proposition that called for the cutting off of government funds to illegal immigrants and their children]?
Cohen: I don't know about this issue. But there is nothing that does or should prohibit citizens, regardless of their particular vocation or beliefs, from stating their opinion about public policy. People of the cloth have every right to do that, and the government should in no way start telling people, because they're ministers, rabbis, monks, or whatever, that they cannot voice their opinion.

Prager: Everybody can voice their opinion, but my general perception is that when clergy voice their opinion left of center, use their church pulpit to advocate ideas that are left of center, it is considered noble and inspiring. But when it is done right of center, it's called a religious invasion and a violation of church-state separation. That's what annoys me.
Cohen: Well, normally when the clergy are left of center, they are not trying to impose their will on other people.

Prager: Of course they are.
Cohen: They are trying to give people freedom.

Prager: That, I must say, is the only moment today that I've been driven a little crazy.
Cohen: Don't go crazy.

Prager: I will, because you're so bright, and yet you're fooling yourself. You're telling me that leftist clergy are not trying to impose their values. Leftist clergy wanted to pass civil rights legislation — which I supported — that said a man in his own restaurant cannot choose whom he serves but must serve anybody who enters. Is that not imposing their morality on the country?
Cohen: [Long pause] Trump.

Prager: Okay. I love you for that. CPR

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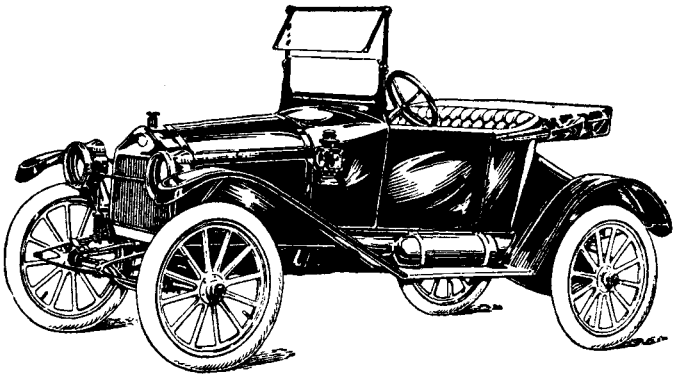
Smog Check II



Doin' You Out of Your Car

Leon McKinney

As a consequence of 1990 amendments to the federal Clean Air Act, in 1994 the smog nazis at the California Air Resources Board (CARB) toughened California's already strict smog laws by enacting Smog Check II, set to take full effect next January, with help from the usual liberal suspects in the Legislature and with Governor Pete Wilson idly standing by. Since then, thousands of angry drivers have charged the program with being a conspiracy between Sacramento, which stands to realize billions of dollars in revenue from "retiring" cars and crushing them, and an environmental company, automobile manufacturers, and car dealers, all of whom will also be enriched.

"The automobile is the great emancipator ... and will remain the central source of personal transportation in all free, high-technology societies," Brock Yates wrote earlier this year in *Life* magazine. America, the most free and, not coincidentally, the most mobile society on earth, has for decades been the land of the car. California, even more so. Anyone trying to seize Californians' cars does so at grave peril, yet this is precisely what Smog Check II is all about. Authorized early in 1994 by Senator Newt Russell's SB 629 (co-authored by Democrats Senator Dan Boatwright and Assemblyman Richard Katz), Smog Check II emission standards are not set by law. CARB gets to change the rules as they please. SB 629, Section 15: "The department, in cooperation with the state board, shall prescribe maximum emission standards to be applied in inspecting motor vehicles under this chapter" — a wide-open declaration of bureaucrat independence.

Critics say Smog Check II began with a target of failing 90 percent of cars 10 years old or older or with more than 100,000 miles, but that the high bar has been raised arbitrarily, by 50 percent, for instance, just since the beginning of 1996. The apparent goal now is eventually to fail all cars four years old or older, by continuing to ratchet up acceptable emission level standards. Owners of cars that fail, but not too badly, are required to spend as much as $450 to bring their car up to standards. However, CARB also has another, lower threshold level. Cars falling below *that* standard receive the sinister designation "gross polluter," defined as the bureaucrats please: "'Gross polluter' means a vehicle with excess hydrocarbon, carbon monoxide, or oxides of nitrogen emissions *as established by the department in consultation with the state board.*" (Emphasis added.) And the charges are unlimited. SB 629: "No cost limit shall be imposed in those cases where ... the vehicle has been ... verified as a gross polluter ...."

You now learn that owning a "gross polluter" is roughly the equivalent of being an enemy of the people as your ownership rights evaporate. The Legislative Counsel's Digest for SB 629 states "the bill would prohibit any person from operating or leaving standing on a highway any vehicle which is a gross polluter." Section 50 of SB 629 says: "The department, in coop-

CPR *Contributing Editor Leon McKinney writes political commentary for the* Orange County Register.

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Who speaks for *you* on Prop 187?

Which candidates want to stop social welfare benefits for illegal immigrants?

Which candidates are willing to challenge liberal federal judge Mariana Pfaelzer?

Your influence is magnified at election time. If your legislative candidate's name listed below is marked "☆" then they've agreed to be a co-chairman of our *Prop 187 Legal Defense Fund* and we will request permission from the court to put their name on our Amicus Curiae legal brief to overturn Judge Pfaelzer's expected adverse ruling against Prop 187.

A "☆☆" means that candidate is a founding co-chairman of the Prop 187 Legal Defense Fund. Write to your legislators today: either thank them for standing up for the Constitution and your views. Or else ask them, why *haven't* you made a stand? Tell them you want to hear back from them before election day.

Reproduce copies of this ad-flyer and help us get the word out. Don't be sweet-talked by the politicians, but ask them where they stand and tell them this is important to you. Do they stand with the ultra-liberal ACLU and against the people of California, or will they stand for the Constitution and implementation of the Prop 187 victory at the polls two years ago?

Incumbents not up for election this year, or not seeking reelection

Senators

☆☆Don Rogers (R)

☆Ray Haynes (R)

☆Rob Hurtt (R)

☆☆Maurice Johannessen (R)

☆Dick Monteith (R)

☆Newton Russell (R)

Assemblymen

☆☆Mickey Conroy (R)
1940 North Tustin St. Suite 100
Orange, CA 92865
(candidate for Supervisor)

☆Trice Harvey (R)*
8009 Cold Creek Ct.
Bakersfield, CA 93313

☆David Knowles (R)

**(candidate U.S. Congress)*

Senate Candidates

1st district

Sen. Tim Leslie (R)
1200 Melody Lane, #110
Roseville, CA 95611

Tom Romero (D)
P.O. Box 2046, Loomis VA 95650

2nd district

Sen. Mike Thompson (D)
50-D State Street #120A
Santa Rosa, CA 95404

3rd district

Curtis Rau (R)
100 McAllister St. #1708
San Francisco, CA 94104

Assemblyman John L. Burton (D)
465 California St, #400
San Francisco, CA 94101

District 5

Kurt C. Boese (R)
925 North Church St., Lodi, CA 95240

Sen. Patrick Johnston (D)
31 East Channel St., Stockton, CA 95202

District 7

☆Assemblyman Richard Rainey (R)
160 Bexley Pl., Walnut Creek CA 94595

Jeff Smith (D)
804 Roberts Ct., Martinex, CA 94553

District 9

☆Thomas N. Hudson (R)
1350 Fernside Boulevard
Alemeda, CA 94501-3120

Assemblywoman Barbara Lee (D)
P.O. Box 20767, Oakland, CA 94611

District 11

Patrick Shannon (R)
675 El Camino Real, Palo Alto, CA 94301

Sen. Byron D. Sher (D)
74 Peter Coutts Circle
Stanford, CA 94305

District 13

☆Ray Morton (R)
1030 East El Camino Real, #133
Sunnyvale, CA 94087-3759

Sen. John Vasconcellos (D)
1915 Bellomy St., #5
Santa Clara, CA 95050

District 15

Bruce McPherson (R)
P.O. Box 2747, Santa Cruz, CA 95063

Rusty Arelias (D)
24520 Outlook Drive, #24
Carmel, CA 93923

District 17

☆Assemblyman William. J. 'Pete' Knight (R)
1813-c East Palmdale Boulevard
Palmdale, CA 93550

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Victorville, CA 92392

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☆Assemblywoman Paula L. Boland (R)
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Burbank, CA 91504

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Inglewood, CA 90301

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☆Assemblyman Phil Hawkins (R)
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Bellflower, CA 90707

Betty Karnette (D)
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Long Beach, CA 90806

District 29

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San Dimas, CA 91773

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Rancho Cucamonga, CA 91730

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☆Sen. John R. Lewis (R)
185 N. Roth Lane, Orange, CA 92669

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Orange, CA 92666

District 35

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2805 Ladrillo Aisle, Irvine, CA 95714

Madelene Arakelian (D)
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Irvine, CA 92715

District 37

☆Sen. David G. Kelley (R)
P. O. Box 1027, Idyllwild, CA 92549

Haans Alfred Schroeder (D)
P.O. Box 237 N Palm Springs, CA 92241

District 39

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5360 Balboa Ave., San Diego, CA 92117

Assemblywoman Deirdre 'Dede' Alpert (D)
P.O. Box 84324, San Diego, CA 92138

Assembly Candidates

District 1

☆MargieHandley (R)
P.O. Box 1329, Willits, CA 95490

Virginia R. Strom-Martin (D)
P.O. Box 125, Duncans Mills, CA 95430

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☆Assemblyman Tom Woods (R)
P.O. Box 206, Shasta, CA 96087

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Red Bluff, CA 96080

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☆Assemblyman Bernie Richter (R)
1628 Oak Park Ave., Chico, CA 95928

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P.O. Box 187, San Andreas, CA 95249

Erike J. Young (D)
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Sacramento, CA 95814

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eration with the state board, shall institute procedures for auditing the emissions of vehicles while actually being driven on the streets and highways of the state ... The procedures may include pullovers for roadside emissions testing and inspection ... The department shall ... establish a program for ... testing and repair of vehicles found ... to be emitting at levels that exceed specified standards. The program shall include all of the following elements: Procedures requiring owners of vehicles confirmed as gross polluters to have the vehicle repaired, resubmitted for testing, and obtain a certificate of compliance from a designated referee facility within 30 days or be subject to a penalty of five hundred dollars ($500) ... No vehicle cited as a gross polluter that has not received a certificate of compliance shall be registered in California."

If you can't afford repairs, at whatever cost, the government can take your car to be crushed. Officials deny this, pointing to another law, the "Early Vehicle Retirement Act" (SB 501) by Senator Charles Calderon, which establishes an "Accelerated Light-Duty Vehicle Retirement Program." According to 501: "Participation by the vehicle owner shall be entirely voluntary and the program design should be sensitive to the concerns of car collectors and to consumers for whom older vehicles provide affordable transportation."

So technically you don't *have* to retire your vehicle, if you don't mind owning a car the state won't allow you to register and that therefore cannot legally be driven or even parked on a public street. But if you persist in operating an unregistered vehicle, it *can* be seized (though the government prefers to use the less draconian-sounding "impounded") by police, becoming the property of the state. Under SB 501, the state will pay owners of seized vehicles no more than $450 for their car, no matter what its "Blue Book" value. This "voluntary" program, thus, offers "gross polluters" (as defined by unelected bureaucrats) the choice of finding private, off-street storage for their cars that they can no longer drive or at least receiving $450 for them.

Besides the fun of pushing people around, the law creates a strong financial incentive for the state to find and take away as many "gross polluters" as it can. Each one it removes gives the state a positive "pollution credit" that it can then sell, for as much as $10,000, to businesses that are surpassing *their* emission standards.

For once, California is not a trail-blazer in this effort by the smog gods to pursue clean air even if it means restricting or eliminating citizens' mobility. Connecticut, New York, New Jersey, Pennsylvania, Ohio, Colorado, and Ohio all have their own versions of Smog Check II. The common element everywhere is Envirotest, the nation's largest automobile-emissions testing company with 65 percent of the market. Envirotest uses a device called a dynamometer, essentially a treadmill for cars. With the dynamometer and associated equipment, Envirotest can identify polluting cars more accurately than the previous industry standard which measured emissions from idling cars' tailpipes. Sunnyvale-based Envirotest has propelled its 1990 founder, Chester Davenport, to a net worth reported at $90 million, earning Davenport the label of wealthiest black entrepreneur in America. Envirotest paid Davenport a salary of $834,376 in 1995. "Chester Davenport and a lot of smart, industrious people understand that government is good for business," says Russell Hinz, president of the Coalition for Safer, Cleaner Vehicles, a pro-emissions-testing group of health organizations and companies. "It's called using the system to your advantage and being a winner."

Envirotest has demonstrated not only technical skill, but political savvy as well, creating a well-oiled, powerful political machine. Envirotest's corporate counsel is Vernon Jordan, head of President Clinton's 1992-'93 transition team and one of Washington's most influential people. According to the Washongton D.C.-based Center for Responsive Politics, Jordan's law firm — Akin, Gump, Strauss, Hauer, and Feld — has given more money to federal candidates through its PAC than any other law firm. Envirotest's 1993 public stock offering prospectus said lobbying for ever-stronger emissions testing is "an important initial step in marketing its services," and that Envirotest "attempts to build support for the adoption of such a program among environmental and health organizations." For instance, between 1992 to 1995, Envirotest donated $185,000 to the American Lung Association. And ALA has lobbied various state legislatures and the federal government for tough emissions tests. When legislators in Pennsylvania were considering breaking a $60 million-a-year contract with Envirotest in 1994, ALA bought full-page newspaper ads across the state praising Envirotest and urging readers to call lawmakers.

Also in 1994, an Envirotest lobbyist sent a copy of a proposal by Pennsylvania state Senator Gerald LaValle to scale back the state's planned emissions program to a Michigan-based EPA staffer who formerly worked for Envirotest. The staffer sent back a memo — which was circulated among legislators — stating that if the measure became law, EPA would cause "the lapse of transportation plans and the end of highway project funding" from the federal government. An understandably

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irritated LaValle wrote Clinton's EPA Administrator Carol Browner that it was "highly irregular ... for an EPA staffer to convey policy to a lobbyist instead of state officials," also noting the apparent "extremely cozy relationship" between EPA and Envirotest.

By the fall of 1993, Envirotest had won contracts worth more than $1 billion for its sophisticated emissions testing with Colorado, New York, and Pennsylvania. In Connecticut, Envirotest faced losing its $150 million contract when a government evaluation committee selected Envirotest's competition. Soon Governor Lowell Weicker heard from his former chief of staff and campaign manager, by then an Envirotest lobbyist, also from the state treasurer, and the chairman of one of Connecticut's largest companies. Even the Reverend Jesse Jackson called to tout Envirotest as a "minority"-owned firm. Envirotest's hard-ball campaign convinced Weicker to order new evaluations, which (suprise) led him to choose Envirotest. The ensuing controversy prompted an attorney general and state auditor investigation which concluded: Envirotest's lobbying "directly affected the decision-making process and presented the appearance of partiality and unfairness to the public."

Technically you don't *have* to retire your vehicle, if you don't mind owning a car you can't drive.

In Minnesota, Envirotest hired the sister of the assistant commissioner of the state agency that oversees automobile emissions testing. In New Hampshire, it hired both the governor's campaign chairman and a major campaign fund-raiser. New Jersey's version of Smog Check II, also run by Envirotest, has caused great citizen anger. New Jersey resident Eric Peters, in the May 9 *Wall Street Journal*, wrote: "Many older cars are expected to fail the Dynamometer (SMOG II) Test, perhaps 60 percent according to the EPA ... What's happening ... is frightening and ominous. It's about getting folks out of their cars, by force or fraud."

In California, Smog Check II will exact huge amounts of money from citizens. Cal Berkeley Emeritas Professor and director of the TQS Research Institute Octavio I. Romano, in a "Preliminary Analysis of Smog Check II" that I found posted on the Internet, estimates that, of the state's approximately 26 million licensed cars, about 15 percent — 3.9 million — are expected to be declared "gross polluters." If those owners spend the compliance waiver limit of $450 trying to fix their cars, plus an average of $200 for retests, appeals, court costs, etc., the total cost will be $2.54 billion. If half of the "gross polluters" — 1.95 million — still fail, then most of those cars will be crushed creating saleable "pollution credits" for the state while the former owners will pay plenty for the privilege of driving again — about $120 in towing charges (if the 30-day "compliance" period is past), around $10,000 for a lower-end new car plus 8 percent sales tax, an average of $200 for registration — some $11,000 each, for a grand statewide total cost to drivers of $21.684 billion. Of course, others look at the bright side. Envirotest will be minting money. Sacramento will see a $1.95 billion return, in the form of sales tax and vehicle registration revenue, for an outlay of $877 million ($450 times 1.95 million cars) *plus* possibly 10 times that amount from the sale of those valuable pollution credits. The staggering net revenue gains could total as much as $20.6 billion.

Few Californians are yet aware of what's coming. But enough citizens already *are* angry, thanks to publicity given the issue on talk-radio stations KSFO (San Francisco) and KOGO (San Diego), that California Democrats seem suddenly worried about the impact in November if they're seen as grabbing people's cars. In particular, Senate Democrat Leader Bill Lockyer, who might lose his partisan leadership post if Democrats lose many senate seats, is looking nervously at the race to replace retiring San Diego state Senator Lucy Killea. Lockyer's candidate there, Assemblywoman Dede Alpert, is being abused by KOGO and other San Diego radio stations with great vigour, because she had previously been an enthusiast of CARB, the AQMD, and the smog nazis. On September 24, joined by Republicans, Lockyer and the Democrats demanded that Wilson "put the brakes on" Smog Check II. When reporters told Lockyer that CARB had said it couldn't simply suspend the program, Lockyer snapped: "That is a typical bureaucratic reaction. When the bureaucrats blow it, they claim they're somehow not responsible. The way they are administering (the program) is their responsibility. And specifically, Governor Wilson's responsibility." Imagine: Bill Lockyer siding with citizens against a mammoth, oppressive government agency.

If Smog Check II continues, Lockyer's problems — and Wilson's — are probably just starting. It could stimulate an uprising to make the 1978 tax revolt look like a walk in the park. Readers interested in more information can call a group called SAVE YOUR CAR (1-800-991-1918). CPR

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ELECTION EVE

Three tales for the season as another campaign – the usual witches' brew – bubbles and boils down to its final nightfall.

GOP Morale Remains Key to Congress, Legislative Races

by Christopher Shelton

Although we are now much closer to November 5 than when I wrote my thoughts on the election outcomes published last issue, the basic question and the outlook has changed little. Much still depends on whether or not the GOP base gets out and votes or stays home, and that, in turn, still depends mainly on how the presidential winds blow — how heavily will GOP voters turn out if, for instance, polls the last weekend before election day show Dole languishing far behind in 40 or more states (whether or not they include California)? Or how, if Dole/Kemp manage to turn it into a down-to-the-wire race? Notwithstanding the uncertainties, at this point my betting would be on a decent — but not spectacular — turnout for the base votes of both parties. And that, I think, portends reasonably favorable things for the Republicans.

Christopher Shelton is the pseudonym of a long-time observer of California politics.

Congress

Last time we mentioned 4 vulnerable GOP seats — held by Frank Riggs, Brian Bilbray, Andrea Seastrand, and the retiring Carlos Moorhead. Assemblyman Jim Rogan in the Moorhead seat and Bilbray now appear well on their way to victory. Frank Riggs seems to be ahead by enough to put him in the winners circle barring a huge Democrat turnout. That leaves Andrea Seastrand as our most vulnerable incumbent.

She has had some management problems and has been the target of an unrelenting assault by Big Labor's multi-million dollar negative TV blitz. She could still hold on though, and it would be a major black eye for labor if she does. Go Andrea Go!!!

On the flip side of the congressional coin, the latest polls show Republican Judge Linda Wilde slightly ahead of long time incumbent George Brown. GOP candidates also remain within striking distance against

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November 1996 Statewide Ballot Propositions

by John Kurzweil & Dan Brennan

The Bonds – Propositions 204, 205, and 206

Bonds, whatever their specific purpose, always mean *more* government, with all that implies about inefficiency and the substitution of political for economic incentives. The Legislature placed three bond measures on this ballot: Proposition 204 ($1 billion for various water projects), 205 ($700 million in prison construction and maintenance bonds), and 206 ($400 million in bonds to finance government loans to veterans). California now has more than $20 billion in long-term bonded indebtedness. To put that in context: the state's debt service in fiscal year 1994-95 consumed 5.23 percent of the state general fund, up from 2.35 percent in 1990-91 and around 1 percent in the early '80s. "The bond houses," fiscal expert Tom McClintock said recently, "set 5 percent as the red line beyond which no prudently-managed state should go," which is the main reason California's bond rating is the nation's lowest. Also, besides what's out there now, voters have approved a bond *backlog* in excess of *$29 billion.*

John Kurzweil is editor and Dan Brennan is contributing editor of California Political Review.

Civil Justice – Propositions 207, 211, and 213

Trial Lawyers introduced 207 to nullify the March ballot's Proposition 202 (limiting contingency fees to 15 percent on quick-settling cases — it lost anyway) and to require a vote of the people to limit contingency fees. Conservatives who think this is a free market reform should ask themselves what is free about state-enforced extortion of "deep pockets." Exorbitant contingency fees are the mechanism by which attorneys divert to themselves vast portions of the loot. The linchpin of the "transaction" is the robbery of the defendant, without which there'd be no "transaction" at all. A bank heist is not transformed into free market trade just because, at some point, the thieves divide their take. These are state-forced money transfers. The state has a right and a duty to insure

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Willie Brown blames CCRI on right-wing paranoia, but ... it ain't necessarily so

by Tom McClintock
The Claremont Institute

A House Divided: The Janice Camarena Story

Janice Camarena is an unlikely crusader. She left an unstable home at the age of 15. By age 18, she was a widow. Her young husband was dead, the victim of an undiscovered heart defect. Janice was also penniless, without a high school diploma, and was mother of a two-year-old toddler and a two-week-old baby. For three years, she barely got by between social security and baby sitting jobs. In 1993, reviving a childhood dream of becoming a nurse, she determined to return to school, obtaining her high school proficiency certificate and spending three more years juggling schedules to care for her children, work at odd jobs, and attend one or two classes each term.

Tom McClintock is director of Economic and Regulatory Affairs for the Claremont Institute.

She was doing well academically, earning "A"s in several classes, "but we were getting further behind on bills and I needed to graduate as quickly as possible," Janice said. "And to qualify for grants, I needed to take at least 12 units that semester." Taking 12 units of college courses, continuing her odd jobs and conforming to her children's schedule meant that Janice needed to piece together an intricate puzzle of a schedule. There was one break: the English 101 course required for her degree offered 34 different time slots, and one of those fit her needs perfectly.

On January 19, 1994, Janice Camarena took her seat in the classroom, and began fidgeting with her pen. Something didn't feel right: she sensed a restlessness and even hostility around her. She began to feel very uncomfortable. Instructor Diana Anderson glared at her, and Janice knew something was terribly wrong. "This class is for African-American students only," Anderson said coldly. "You'll have to leave." The restlessness in the classroom suddenly erupted into jeers and derisive laughter. Janice packed her things and quickly left the class.

She was between tears and anger as she hurried to the administration building, groping for the words

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Shelton

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Calvin Dooley in the Fresno area and Jane Harmon in Torrance/El Segundo. So it's beginning to look as though, if the Democrats do make major gains in the House, they'll have to do so without the help of Golden State voters.

State Senate

The senate contests are shaping up as potentially the biggest surprise of the whole election. Republican Assembly members Paula Boland and Phil Hawkins

The Senate contests are shaping up as potentially the biggest surprise of the whole election.

have opened up significant leads in their efforts to hold the Newt Russell and Bob Beverly seats in L.A. County for the GOP. Republican Assemblyman Richard Rainey is the sure winner in retiring Democrat Dan Boatwright's Contra Costa County district. Joe Dolphin in San Diego (Lucy Killea's district) and Assemblyman Bruce McPherson in Monterey/Santa Cruz (Henry Mello's seat) are both possible winners.

Should one of them win, Senate GOP leader Rob Hurtt will have a two seat pick-up, which would mean 18 Republicans in the Senate and most assuredly the demise of Bill Lockyer as Senate President and Democrat leader. Should both Dolphin and McPherson win, the Senate would have 19 GOP members, and Hurtt or Independent Senator Quentin Kopp would probably be the new President.

Assembly

Speaker Curt Pringle's political operation appears to have hit its stride, and Assembly Democrats have dramatically lowered their expectations in the last week or so. Continued in-fighting among the various Speaker wanna-be's seriously hampers the Democrat effort in the lower house.

It appears that Brian Sentencich's effort to hold his Fresno seat through a write-in effort has collapsed because of a lack of both interest and money. GOP standard-bearer Bruce Prenter looks like a lock there. Republican Tom Berryhill holds a strong lead in the district of retiring Democrat Sal Canella in Modesto.

Margie Handley is still very close in her effort to put the far north coast Assembly seat in the GOP column for the first time in two decades. Additionally, the districts held by Democrat Debra Bowen in L.A. County and Dede Alpert in San Diego are also possible Republican pick-ups.

However, to balance these losses, the Democrats have a near certain pick-up in Bruce McPherson's Santa Cruz district. They also still have a fair-to-middlin' chance of unseating Bill Hoge in the Pasadena area. But that's about the end of their opportunities.

If we had followed the British example in this country and allowed betting on election outcomes, I'd put my money on 42 Republican members of the state Assembly in December.

If these 42 Republican Assemblymen are joined by 18 GOP state Senators, Democrat strength in the Legislature will be at its lowest since 1970. This would be a partiuclarly ominous development for the Donkey Party if it happens while their presidential candidate is carrying the state with ease. California voters are renown for ticket splitting and head scratching outcomes. I wouldn't bet against their doing it again this year. CPR

Kurzweil & Brennan

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that they operate in the interest of justice, an end high contingency fees do not serve.

San Diego Attorney Bill Lerach, a pirate grown hugely wealthy holding up his victims using a lawsuit rather than a gun, introduced Proposition 211 to allow him to continue plying his trade here in California after Congress, over-riding Clinton's veto, curbed some of the most outrageous abuses by which Lerach operated. 211 opens vast new "securities fraud" opportunities for Lerach with little requirement that he prove wrongdoing before collecting.

Proposition 213 — the "Personal Responsibility Act of 1996" — denies recovery of damages from in-

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juries caused during the commission of or immediate flight from a felony.

Incumbents & Billionaires Only – 208 and 212

Propositions 208 and 212 both propose to reform elections by severely limiting campaign contributions. On the federal level, this formula has made it much more difficult for challengers (except super-rich ones, like Ross Perot and Michael Huffington) to mount serious campaigns against incumbents and career politicians. Incumbents enjoy a multitude of free and taxpayer-financed opportunities to tell voters they should be re-elected. The only way citizen politicians can compete is by asking fellow citizens to donate to pay for mailing and advertising costs and to mount aggressive, expensive media campaigns. Democracy is supposed to be about insuring government beholden to the people. Shutting them out seems a strange road to reform, which, by the way, is the main reason so many attempts at similar "reforms" have been thrown out in court. Their real effect is to limit free speech, another old enemy of incumbents.

Medical Care – Propositions 214, 215, and 216

Under "Fiscal Impact," the California Sample Ballot says of 214: "Increased state and local government costs for existing health programs and benefits, probably in the tens to hundreds of millions of dollars annually," and, of 216: "Additional state and local government costs for existing health programs and benefits, probably tens to hundreds of millions of dollars annually." These dollars will be taken from us to be spent by bureaucrats paying special interests to do what the bureaucrats and politicians, not us, want done. That's the bottom line on all big government programs. Evidently the authors haven't heard that the era of this sort of thing is over.

Proposition 215 legalizes the prescribed medical use of marijuana for relieving "any ... illness for which marijuana provides relief," a provision that makes 215 a virtual marijuana legalization measure. Depression, fatigue, common colds, "bad hair days" — what wouldn't qualify? The narrowly-drawn-title — "Medical Use of Marijuana Initiative" — is dishonest.

210, 217, 218, and CCRI

Proposition 210 increases the minimum wage from $4.25 to $500 per hour, so we'll all be rich as Bill Lerach starting November 6 — JUST KIDDING!!!! Actually, minimum wage laws make jobs that pay less than the minimum illegal, so these jobs will mostly go away. Few people know that, which testifies to the incompetence of our educational system. Proposition 217 restores California's 10 and 11 percent "top tier" income tax rates as a bow to the basic law of taxation: "Don't tax me; don't tax thee; tax that man behind the tree." And Proposition 218 limits the authority of local governments to impose taxes and property-related assessments, fees, and charges, ending loopholes politicians use to circumvent Proposition 13.

Tom McClintock speaks eloquently to Proposition 209, The California Civil Rights Initiative, nearby. Suffice here to quote, to show how nuts this is driving the left, from the Sierra Club's "No on 209" literature: "... 209 would perpetuate environmental discrimination against people of color — via disproportionate exposure to environmental toxics. Consider lead poisoning as one example ...." No, thank you, we won't. You get the drift. CPR

McClintock

(Continued from page 19)

she would need to convey her experience to college officials. "I was shocked about it and I thought, this can't be happening. Did I just get kicked out of this class because I was white?" College administrators were unsympathetic. They explained the class was for disadvantaged students and that Janice had no right to be there. She thought of the obstacles she had surmounted. Janice barely held her composure until she left the building.

The classroom Janice had intruded upon was part of a preferential curriculum called the "Black Bridge Program," and offered qualifying students an inside track to the prestigious University of California. Students who met the program's qualifications received their own personal counselor, a professional off-campus mentor, special computer services, and a stream of invitations to private seminars and receptions with academic and professional leaders. The qualification to enter this world of privilege was quite uncomplicated. One had to be born with the right color skin, and Janice Camarena had failed the entrance exam.

Eventually, Janice's case came to the attention of Attorney Robert J. Corry of the Pacific Legal Foundation who, in March 1995, filed suit in U.S. District Court against the San Bernardino Community College District, the California Community Colleges,

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and the University of California on behalf of Janice Camarena. The suit received substantial attention on evening radio and television broadcasts, and was front page news in the local paper the next morning.

College officials reacted immediately and viciously. San Bernardino Valley College President David Singer called a campus assembly the next day to discuss the lawsuit with faculty and students. Janice sat in the front row. President Singer mounted the stage, played a video tape of Corry's press conference, and denied that the incident had occurred. He then opened Janice's confidential student records, and in front of faculty and students, implied that Janice Camarena was just a disgruntled failure trying to blame the college for her own problems.

Corry was dumbfounded. "It was obviously a very uncomfortable experience for her," he related. "To be singled out and talked about that way by the chief administrator of your school and ridiculed .... But it backfired." To Singer's amazement, the vast majority of the campus assembly did not turn against Janice. They supported her. By the next morning, several hundred students had signed a petition on her behalf.

The University of California General Counsel, a powerful law firm hired by the California Community Colleges and the state Attorney General all stood against the 25-year old widow and her 27-year old lawyer. "It was very difficult to obtain the documents we needed, which are public records," Corry said. But when Corry threatened to file a motion to compel the college officials to divulge their papers, their resistance suddenly collapsed. Corry received a phone call. The state of California wanted to settle. A little over two years after she was thrown out of her classroom, this remarkable single mother who just wanted to provide for her three daughters, had forced the 106-campus California Community College system to renounce its own segregated classes, and forbade it ever again to discourage another student from entering a classroom based on race. Asked if this was an isolated case, Rob Corry chuckled. "No, we have quite a few of these cases, but we're waiting to file until after CCRI is settled. If CCRI is adopted I think a lot of these preference programs will be in legal jeopardy."

Then We Can't Use You: The Story of Fontana Steel

Paul Ware grew up in the dusty little town of Fontana, California, about 54 miles inland from Los Angeles. With his wife, Dorothy, he was running the small family farm when, in 1946, he foresaw the coming of a post-war construction boom in California. He found he could make a little extra money contracting out labor on local steel projects. Little by little, his business grew, eventually becoming "Fontana Steel." Over the years, Paul Ware built a thriving enterprise that played a role in some of the biggest public works projects in California history: the California Water Project, the Feather River Project, the Golden State Freeway, the Century Freeway. At its zenith, Fontana Steel employed more than 500 employees.

Ware's workers are a mix of the surrounding communities, about 52 percent white and 48 percent from minority groups, mainly black and Hispanic. "This company's always felt that a person's color is not important," said Paul's son Don, now the company president. "If a person can do the job, that's all that matters. We always looked at the ability. If they had the ability, they had the job."

Today, Fontana steel is only a fraction of its former size. The booming 500-employee company is now down to only 125 workers, in large part because state law disqualified the Ware family from bidding on public works contracts, which made up about 65 percent of its business.

It's not the fault of the company or the workers. It's Paul Ware's fault. He is white.

In the 1980s, California enacted a series of laws requiring that a fifth of all contracts be set aside for minority or women-owned companies. Although half of Fontana's employees are from minority groups, the fact that Paul is white makes it impossible for the company to bid on Caltrans contracts except as a supplier. "It started happening in the '80s," Don recalls. "We would bid jobs and the contractor taking our quotes would ask us if we were an MBE (minority business enterprise) or a WBE (woman business enterprise). When we said 'no,' they said, 'then we can't use you,'" Don said.

Fontana Steel's future is uncertain. "We may end up sooner or later becoming only a fabricator," Don worries. "If we closed out the installation part of our business, it would leave at least another hundred people out of work."

Don grew solemn. "I've done my best to take care of the success of the company so that my sons could go on. My Dad has given his whole life to the business. He had done without his whole life and put all his money back in the company so that it could survive. He's now an old man, and he's watching the company get placed in a position where it cannot grow." CPR

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Brulte

(Continued from page 10)

allowing other power providers equal and fair access to the market. The law's provisions will further require their participation in a newly created Power Exchange (WEPEX) where all customers can obtain power at wholesale prices, at all times. Thus, AB 1890 will deliver electrical power to consumers at a significant savings. Formerly monopoly-supported utilities will be forced to work within a competitive marketplace, with many other market participants, for the right to provide electricity.

An independent system operator (ISO) will be established to control statewide transmission access and system operations. WEPEX will act as a statewide energy marketplace — a clearinghouse — helping to establish a uniform market price. The resulting market will assure customers a choice among competing suppliers, all of which will have access to an open, non-discriminatory transmission and distribution system. Governance of the ISO will be provided by a policy board broadly representative of the public's interest. No other industry provides such benefits to all consumers.

Specifically, AB 1890 provides that:

- Market competition will begin January 1, 1998.
- As a transitional measure, residential and small business customers of investor-owned utilities will receive rate reductions of at least 20 percent by 2002.
- No customer shall pay a higher rate for electricity, between now and 2002, than they paid on June 10, 1996.
- Reliability and customer protections against the loss of energy service will be enhanced through expenditures directed to the maintenance of transmission and distribution lines. Additionally, the ISO will view the system as a statewide network, as opposed to several regional networks.

- Local governance of publicly-owned utilities will be respected and preserved. Local government-run utilities will be entitled to recover stranded costs if they adopt the same market structure. Customers within the territory of these public utilities may join the statewide system, receiving their power from private suppliers.
- Provides retraining, severance, early retirement, and outplacement services for any employees of investor-owned and municipal utilities displaced by restructuring.
- Special protections are provided for customers including education programs, enforcement actions against fraudulent marketers, written notice of contract terms, "anti-slamming" provisions, borrowed from our experience with long distance telephone de-regulation, barring anyone from changing your power-supplying company without your explicit consent, and a continuance of existing programs (such as those provided to low-income and senior consumers).

The purpose of utility industry deregulation is reduced electricity rates. We are disassembling an industry and a system to build a better one. AB 1890 resulted from lengthy consultations with and discussions among consumer groups, small and large businesses, agricultural and environmental interests, organized labor, independent energy producers, and regulated investor-owned utilities. No single issue, during this legislative session, underwent more detailed analysis or received such broad support from a more diverse group of interests. These parties agree that competition will create benefits that pass through to all California consumers.

In addition to securing lower prices and greater choice for the household consumer, the Wilson administration estimates California schools will realize a savings of at least $123 million by 2002 — enough money to hire 3,500 new teachers or build 1,600 new classrooms.

AB 1890's lower electric costs will make California a more attractive location for investors and job creators, improving our ability to compete with our neighbors in the international marketplace and to bring high-income jobs into the state. As we near the sunset of the 20th Century and approach the dawn of the second millennium, it is reassuring to know that California's electric industry will be able to light our bridge to the future. CPR

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Kanner

(Continued from page 10)

people who keep you from completing a development project, and do so legally? It's beginning to look that way.

The first reported instance of a deal like that came in 1988, when the neighbors of a hotel under construction on the west side of Los Angeles struck a bargain with the developer. The site was holy ground that once housed Ma Maison, a Los Angeles eatery so posh it had an unlisted telephone number.

Alas, all good things come to an end, and one day Ma Maison closed. The restaurant metamorphosed into the upscale Ma Maison Sofitel hotel. The project produced a firestorm of opposition from neighbors who attacked the new development on grounds of inadequate parking. The builder's offer to pop $1 million for new parking was turned down.

But then the darndest thing happened. The controversy was settled after the builder promised to pay only $800,000 for new parking, but paid another $250,000 to the homeowners' association — for civic-minded stuff, of course. In exchange, the homeowners' group would cease to oppose the hotel development.

Since then, such deals have been proliferating like rabbits. In the San Joaquin Valley, a citizens' group that opposed the construction of a co-generation plant in Hanford had a change of heart after the developed ponied up $100,000. In San Francisco, a residents' group was reconciled to the prospect of a high-rise development after its owner forked over a sum reputed to be $500,000. And in Calabasas, a developer recently struck a bargain with the neighbors, agreeing to pay the homeowners' association a cool $250,000 in exchange for dropping their opposition to his efforts to add 100 units to a 550-unit subdivision under construction. In short, baksheesh has come to California, setting a precedent — as California so often does.

But what's the problem, you ask. Aren't these private deals? Well, yes they are, which is why nobody is going to jail, but... The "but" has to do with the fact that a monetary settlement normally goes to a plaintiff or would-be plaintiff who has a claim for monetary damages against a defendant. Maybe it's a good claim and maybe it isn't, but it's a legally cognizable monetary claim.

It's an altogether different story in neightbors-vs.-developers confrontations because the neighbors don't have any legally cognizable monetary claim against the developer. They only profess a desire to advance the public weal by enforcing land-use and environmental regulations. Oh sure, their successful opposition to new construction feathers their own nests by keeping competing seekers of the good life from "their" tony neighborhoods. The constriction of housing supplies kites home values, so they benefit that way.

But money? Asking for and receiving large sums of cold cash? For withdrawing a challenge to what they say is public environmental harm, rather than claiming recompense for private, legally compensable injury? Sounds fishy to me.

Remember that the environmental values the neighbors claim to espouse are supposed to be for the public good — like laws that forbid the false shouting of "Fire!" in a crowded theater. But how do you justify taking money in exchange for allowing someone to shout?

To be sure, the neighbors who receive the cash don't see it that way. It isn't as though they are lining their own pockets, they say — the money goes into a fund to finance other development battles. That is a difference, but is it a justification? The bottom line seems to be that, after all the sloganeering is done, this troubling trend demonstrates that much of the controversy over development in desirable areas is more about money and privileges than the environment and the integrity of land-use laws. CPR

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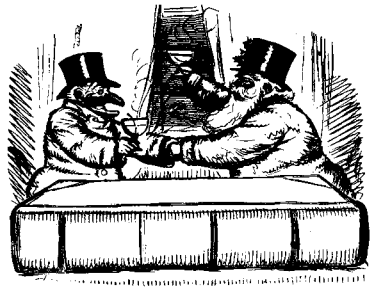

CRITICUS

Death Be Not Proud

BY G.B. TENNYSON

ELECTION TIME should bring thoughts of death as much as thoughts of new or renewed life, but we hear only about the latter: and the Winner Is ..... The closest we come to noting that a candidate has died, even if only metaphorically, is precisely when that candidate is thought to have survived against the odds, which is to say, he hasn't died after all. Then he becomes yet another Comeback Kid, a type now as common in politics as in entertainment, if the two can any longer be distinguished. Richard Nixon, the master of political near death experiences, was admired rather more for his comebacks than for any expected successes, whereas a Geraldine Ferraro seems as dead as Spiro Agnew. Even past presidents can get the *Who He?* treatment, though occasionally, as with James Earl Carter, they become more honored in political death than in life. Perhaps that is why our most patrician (in terms of blood) ex-President, *i.e.*, G.H.W. Bush, was lately sighted wielding a Habitat for Humanity hammer. If it worked for Carter ....

But it is death in any form that Americans are uncomfortable with. They prefer forgetting. What other country has developed the non-death cemetery? That is the one that looks like nothing but an expanse of gently rolling, manicured hillside with an occasional, carefully placed outcropping of trees (kept separate from the grass, of course) and a distant columbarium resembling something like the local Temple of Diana. No crosses, no statuary, no outstanding granite slabs, above all no Stoke Poges country churchyard with its religious carvings and raised slabs midst the occasional overgrowth and gadding vine to inspire a Thomas Gray or the God's Acre at Clevedon with the obligatory ancient yew tree that "grasp[s] at the stones / That name the underlying dead" in Lord Tennyson's "In Memoriam." Certainly no Victorian angels or cherubic infants festooned with scrolls inscribed with sentimental verses for those who died young. And God forfend that there be those piled up, cluttered Latin necropolises packed with carven stone testimonials, often encasing photographs of the departed, and also false flowers in metal urns.

NOT FOR us the cluttered abundance of a Père Lachaise, where in bygone times before it became a place of pilgrimage for overaged flower children worshipping at the shrine of Jim Morrison, Criticus came upon a true ossuary, well off the beaten track to the then most popular tomb, that of Oscar Wilde. There in his pre-Critical, heedless youth he was obliged to ponder the meaning of life as he gazed on heaps of bones piled upon one another in a pit. No, not the work of the SS, but the work of the cemetery authorities who because of space limitations and to accommodate the wealth-challenged actually rented (perhaps still do) burial space for a term of (I like to think) years, then disinterred the bones, pitched them altogether in a modern

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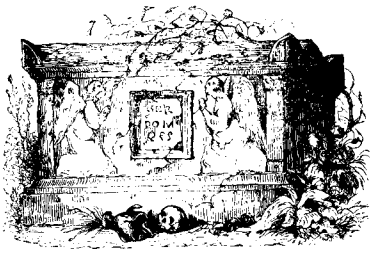
Gehenna, and rented the spaces to others. Thus do paths of glory lead from the grandeur of what the French call *"pompe funèbre"* (literally, funereal pomp, the standard French term for a funeral, most often seen in the plural — *pompes funèbres* — outside funeral homes in gold lettering on black background) to an indignity much lower than that meted out to Gray's "mute, inglorious Milton" or even to the outlaws in the Boot Hills of the Old West. They merely lie unmarked and unregarded, but at least they lie underground. Perhaps that is why the little verse on Shakespeare's tomb pronounces a curse on anyone "that moves my bones."

If in the United States of Niceness we avoid such cavalier treatment as the higgeldy-piggeldy pile of old bones ("dry bones can harm no one," writes Eliot in "The Waste Land"), we also avoid the true pomps that can accompany those who can afford it. Even the stagey Kennedys with their eternal flame came up with a memorial that lies flat on the ground and offers no obstruction to the mechanical grass-cutting equipment that dictates the layout of the modern cemetery. Everybody now lies under the green, green grass of home and the motorized lawn mower. Or their ashes repose in niches. Mme. Criticus managed to avoid both fates by dictating that her ashes should be placed in an urn and the urn remain in the home, something like ancient Roman lares and penates. Which it does. The daughter of the cleaning woman when told that Mme. C. was in that marble urn, standing perhaps a foot high, shook her head and said, marvelling, "But how did they get all of her in there?"



It is death in any form that Americans are uncomfortable with. They prefer forgetting.

AS WITH the non-cemetery, so with the American obituary. It is as limp as wet cardboard. That is, where it exists at all; for the modern American mind, above all the modern California(n) mind, is not comfortable with obituaries. They are too much like old-fashioned graveyards: they stand out, and each is different. It was said that the well-bred gentlewoman of an earlier time always told her children that one's name should never appear in the newspaper save on three occasions: in the birth announcements, in the wedding announcements, and in the death announcements. Birth announcements no longer figure in most large American metropolitan newspapers. Nor is there any longer wedding coverage. Even death announcements are actually paid notices placed by funeral homes and billed to the survivors as part of the cost of servicing the Loved One. Of course all of the above do still appear in small town papers and of course all of the above do appear in big-city papers *if* they concern celebrities or members of the publisher's family, but in such cases they are treated as news stories rather than as milestones in one's inevitable progress from the cradle to the grave.

There is also that remnant of what used to constitute obituaries proper, by which I mean, not death notices and not mere news stories about the deaths of politicians or film stars, but actual obituaries recounting the lives of even minor and local notabilities. The *Los Angeles Times* generally prints two or three a day, then gathers together up to about a half-dozen single-paragraph ones once or twice a week. These are mostly from wire service sources and tend to the straightforward and factual, not to say pedestrian. To be fair one must note that eastern newspapers still offer very much fuller and very many more obituaries, sometimes even interesting and informative ones. They will go so far as to cover persons of note in the community, not just the nationally celebrated and notorious. But all of these efforts pale in comparison to the obituary riches available from our cousins across the water.

The *Times* of London used to be celebrated for its obituaries, and it still does a creditable job with them, though the Murdochization of the paper makes them less compelling than they once were. In any case the tendency in obituary writing had always been towards the marmoreal. All that changed in the 1980s when the London *Daily Telegraph* appointed as its obituaries editor Hugh Montgomery-Massingberd (latterly simplified by him for publication purposes to Hugh Massingberd). He had served for the previous twelve years as the editor of Burke's Peerage publications, which gave him extensive firsthand encounter with biography. He had also written many books about notable families and their residences. Massingberd held the post of obit-

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uaries editor for the *Telegraph* from 1986 to 1994 when forced by ill health to retire from the daily round of obituary writing. His parting gift was to assemble and publish last year in a single volume a collection of the more entertaining and curious of the obituaries that appeared during his tenure. It is *The Daily Telegraph Book of Obituaries,* aptly subtitled *A Celebration of Eccentric Lives.* It is the perfect companion for this election season.

These obituaries make their subject come alive so engagingly that one feels one is meeting a new and engrossing person with every entry.

MASSINGBERD EXPLAINS in his introduction that his own conception of the obituary was greatly influenced years before by a comedian's dismissal of the traditional obituary and by the example of John Aubrey's *Brief Lives,* that seventeenth-century compendium of anecdote, gossip, and history from which succeeding writers have, in the words of Anthony Powell, "plundered so much of their picturesque detail." Massingberd did not hesitate to enlist Powell as one of his team of obituarists, along with many others, though in the tradition of the anonymous obituary Massingberd declines to identify individual authors in his collection. In most cases, however, there can be no doubt that Massingberd himself had at least a hand, and often the main one.

The fact that many of the subjects of the obituaries in this book will be unknown to American readers, and in many instances also previously unknown to British ones, in no way diminishes its appeal. Quite the opposite, for these obituaries make their subject come alive so engagingly that one feels one is meeting a new and engrossing person with every entry, as opposed to the dreary recital of the number of posts held by this or that politician or films made by this or that performer that is the general fare we are condemned to in most obituaries.

Consider, for instance, that Massingberd gives us obituaries of the "revered barman at the Ritz in Piccadilly" (Laurie Ross); the "original" of Gulley Jimson in Joyce Carey's *The Horse's Mouth* (Gerald Wilde); an aristocrat "who made a singular contribution in bringing the exotic into English life" (Stephen Tennant); the woman who broke the gender barrier at two exclusive men's organizations (Florence Nagle); the "night-club queen of the 1920s" (Dorothy Lady de Clifford); an outspoken Scotland Yard director who, God love him, urged the public to "have a go at criminals" (Sir Ranulph "Rasher" Bacon); an eccentric baronet who sought to establish a "Red Republic of all Scotland, excluding Orkneys and Shetland" (Sir Hugh Rankin, Bt); the second wife of Baron Blixen (following Karen, who became the authoress Isak Dinesen), who knew but was not part of the "White Mischief" set ("Cockie" Hoogterp *[sic]*); a German-born princess who became a protectress of Irish heritage (Mariga Guiness); the 104 year old "Extra Woman of the Bedchamber to Queen Elizabeth the Queen Mother" and "last surviving godchild of Queen Victoria" (Lady Victoria Wemyss); the proprietor of a raffish Soho drinking club favored by Bohemians and "assorted loafers" (Ian Board); the "outrageously flamboyant landlord of the Tickell Arms at Whittlesford, near Cambridge" ("Kim" de la Taste Tickell [again *sic]*); the aristocratic lady companion to Elsa Maxwell and part of the inspiration for Noel Coward's song "I Went to a Marvellous Party" ("Dickie" Fellowes-Gordon); the "Liberace of Biblical scholarship" (John Allegro) — well, indeed, the list could include all of the 100 entries, very few of which are about truly famous people but all of which are about truly interesting people.

VIRTUALLY ALL of the examples cited above quote from or paraphrase the opening words of the relevant entry. This illustrates the Massingberd-*Telegraph* style — an initial sentence, sometimes lengthy, that captures the essential quality or achievement of the subject while arresting the reader's attention and luring him on for more. The rest of the entry will expatiate on the central idea of the opening, providing also a factual capsule overview of the life but always spicing the whole with story and anecdote that convey the real character and flavor of the person under discussion. It is, as Massingberd argues, not at all a morbid undertaking; it is a celebration of life.

Thus in the obituary for "Sadie" Barnett, "one of the last of the great Dickensian landladies" at Cambridge

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we meet a woman born "the daughter of a Jewish fruit and vegetable trader" who became a legendary figure for Cambridge undergraduates and was fictionalized in a university novel but the character was excised by the publishers because they found her "beyond belief." She preferred aristocratic and upper-class roomers, and when the university increasingly admitted students from less exalted backgrounds she would say dismissively "'*Nah,* he's labour,' ... though it was unclear whether by this she meant that he was destined for manual labour or was merely perceived as a supporter of the Labour party." The woman clearly had the right political instincts, for she also rejected some anti-hunting campaigners who wanted to protest one of her roomers for hanging a brace of pheasants out of the window: "He can kill what he likes," she told them. "He's a *sportsman,* you know." She also refused to let protestors distribute "free Mandela" messages to her lodgers, and she objected to the liberated modern girl: *"'Pickle'* and *'Pooh'"* she said to two of them at a tea party. "What sort of names are those? Get out of here, you brazen hussies!" She chased down another hiding naked under the bedclothes of one of her "young gentlemen" and sporting dyed green hair. She threw her out and dismissed the tenant as well, saying "I wouldn't have minded if it was only the hair on her head that was green." Of such stuff are great obituaries made.

READING THIS collection during the election silly season restores one's capacity to enjoy other people. Had Criticus not sworn off contests, he would herewith initiate another, inspired by Massingberd's collection but slightly different. It would be the Imaginary Obituary, or, more loftily but less accurately, *Pompes Funèbres Imaginaires.* In it, one would compose an obituary in the *Telegraph* spirit of a contemporary political figure not yet dead but deserving of it for tiresome political shenanigans. A kind of harmless revenge on politics. For example, some beginnings:

B*ll Cl*nt*n

B*ll Cl*nt*n, the second American President forced by scandal to resign his office and the only one ever found *in flagrante* on the White House lawn has died, aged 52, in the Tailgate Trailer Park outside Hot Springs, Arkansas.

H*ll*ry R*dh*m Cl*nt*n

H*ll*ry R*dh*m Cl*nt*n, who has died aged 55 in the Witch Doctor's hut in a Liberian bush village while in a spiritual trance and still clutching a copy of her health care proposal, was known as the Lady Macbeth of American politics.

*l G*r*

Former Vice President *l G*r*, who has died of lung cancer aged 66, was one of the last representatives of the Era of Heavy Smoking that ended when the G*r* Law banning all tobacco products passed in 1997. His frequent visits outside the country during his second term were later revealed to be based on the continuing permission to smoke allowed to foreign airlines and earned him the nickname of "The (F)lying Closet Smoker."

And just to show again that this is not necessarily a partisan publication:

B*b D*l*

B*b D*l*, a former and unsuccessful Republican candidate for President, sometimes called "Triple Dull" in reference to his campaign style and his tendency to repeat his own name, has died, aged 89, just one day short of taking office as the Mayor of Russell, Kansas.

J*ck K*mp

J*ck K*mp, who has died "aged 70 going on 17" (in the words of his wife), was the only former professional football player to seek the office of Vice President of the United States. He was struck by a stray bullet from the gun of an eleven-year old engaged in gang warfare in one of K*mp's beloved Enterprise Zones in the South Bronx.

WELL, THESE are just starters, but it may be as far as one needs to go with such candidates. Rather than invite Constant Readers to submit their own, however, Criticus simply offers this as a parlor game that you can share with others while watching the election returns.

And while on the subject of Constant Readers, Criticus must offer a *mea culpa* to them with a correction to the previous column. By a *lapsus pennae,* or what nowadays should perhaps be called a *lapsus computoris,* Criticus assigned the role of Lady Chatterley to Vanessa Redgrave when he meant to assign it to her daughter, Joely Richardson. Everything else he said about the performance still holds. Now that was a death. CPR

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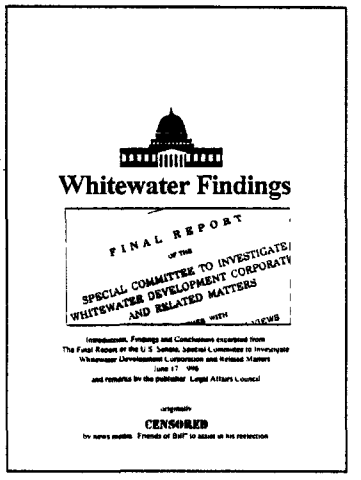

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